

FILED

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

03 MAR -4 AM 10: 58  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

GEORGE BARNES,

Plaintiff,

v.

JOHN NAGLE, et.al.,

Defendants.

CV 02-C-777-W

**ENTERED**  
MAR 04 2003

**MEMORANDUM OF OPINION**

This is a civil action pursuant to 42 U.S.C. § 1983 filed by the plaintiff, George Barnes, on March 27, 2002, alleging that his constitutional rights were violated while he was incarcerated at Bibb County Correctional Facility, in Brent, Alabama. In his *pro se* complaint, plaintiff names Warden John E. Nagle, Assistant Warden Cheryl Price, and Classification Specialist Kairy Crum as defendants. He contends that the defendants violated his right to be free from cruel and unusual punishment. As compensation for the alleged constitutional violations, plaintiff seeks monetary and injunctive relief. On January 31, 2003, the magistrate judge entered a report and recommendation, recommending that summary judgment be granted to defendants Nagle, Price and Crum. No objections have been filed by either party.

Having carefully reviewed and considered *de novo* all the materials in the file, including the report and recommendation, the Court is of the opinion that the magistrate judge's findings of fact and conclusions of law are due to be and are hereby ADOPTED and his recommendation is ACCEPTED. The Court finds that the defendants' motion for summary judgment is due to be GRANTED as follows:

1. The Court EXPRESSLY FINDS that there are no genuine issues of material fact showing that defendants Nagle, Price and Crum subjected the plaintiff to cruel and unusual punishment in

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violation of the Eighth Amendment of the United States Constitution. Therefore, defendants Nagle, Price and Crum are entitled to judgment as a matter of law. Accordingly, the motion for summary judgment filed by defendants Nagle, Price and Crum is due to be GRANTED and the plaintiff's claims are due to be DISMISSED WITH PREJUDICE.

An appropriate order will be entered.

DATED this 4<sup>th</sup> day of March, 2003.



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Chief United States District Judge  
U. W. Clemon